

CHAPTER 2 OPERATIONS

851—2.1(15E) Organization. The foundation is a not-for-profit corporation organized under Iowa Code chapter 504A and for which articles of incorporation are filed in the office of the secretary of state and in the office of the county recorder of Polk County, Iowa.

851—2.2(15E) Board of directors. The foundation is governed by a board constituted and appointed according to provisions of Iowa Code section 15E.154. There are nine voting members on the board and nine ex-officio, nonvoting members. Voting members are appointed by the governor to represent industry and statewide organized labor in accordance with Iowa Code section 15E.154(1)“a.” Nonvoting members are appointed from higher education and the Iowa General Assembly according to Iowa Code section 15E.154(1)“b.” A vacancy shall be filled by the appointing authority. Nonvoting members of the board shall be entitled to notice of meetings, to participate therein, and to all other privileges extended to voting members of the board except the right to vote upon matters coming before the board.

851—2.3(15E) Terms of directors. Voting members of the board shall be divided into three classes as follows:

Class I. Class I directors shall serve terms which expire at the annual meeting held in 1994 and in every third year thereafter.

Class II. Class II directors shall serve terms which expire at the annual meeting held in 1995 and in every third year thereafter.

Class III. Class III directors shall serve terms which expire at the annual meeting held in 1996 and in every third year thereafter. Each nonvoting member of the board shall serve at the pleasure and discretion of the appointing authority as provided in Iowa Code section 15E.154(1)“b.”

851—2.4(15E) Annual meeting, special meetings and minutes. The annual meeting of the board shall be its first meeting following July 1 of each year on such date and at such time as shall be fixed by the board. The annual meeting shall be held in the state of Iowa. In addition to the annual meeting, special meetings of the board, also to be held in the state of Iowa, shall be called by the secretary upon the request of the chairperson (“chair”) or three voting members of the board. Notice of any meeting of the board shall be by ordinary mail, or express mail, or facsimile followed by ordinary mail, sent to each director at least ten days prior to such meeting, stating the purpose, place and time of such meeting. Minutes shall be taken at all meetings. Special meetings of the board may also be held by electronic means under circumstances in which a meeting in person is not possible or is impractical. The ten-day notice requirement need not be observed for electronic meetings, but a good-faith effort shall be made by the chair or secretary to attain full participation in such meetings by the board and to approve an agenda in advance of such meetings. Minutes shall also be taken of all electronic meetings.

851—2.5(15E) Quorum and voting. The presence of no less than five of the voting members of the board shall constitute a quorum for the transaction of business at any meeting of the board, except as otherwise provided in these rules. If a quorum is not present at any meeting, or if the business of such meeting is not completed, those present may by majority vote adjourn the meeting from day to day, or from time to time, not exceeding ten days from such adjournment, without further notice, until a quorum is achieved or the business is completed. At any such adjourned meeting any business may be transacted which might have been transacted at the meeting as originally called. Each voting member of the board shall have one vote on any question properly coming before any meeting of the board. At all meetings of the board all questions, except as otherwise expressly directed by law or the articles of

incorporation or these rules, shall be decided by the vote of a majority of the directors entitled to vote thereon who are present at the meeting and who vote thereon. Proxy voting of any kind shall be prohibited.

851—2.6(15E) Open meetings and executive sessions. The foundation is not a state agency for purposes of open meeting requirements of the law. Nevertheless, meetings of the board shall be open to the public unless a closed session is approved by resolution of the board. The board shall have full authority to convene its meetings in closed session for any reason deemed sufficient to the interests of the foundation in the furtherance of its mission including, but not limited to:

1. Review or discussion of confidential information of third parties such as trade secrets, business plans, patent applications not yet filed, grant applications not yet filed, or nonpublic information of third parties seeking assistance from the foundation;
2. Receipt of confidential advice of counsel;
3. Discussion of preliminary proposal evaluations or peer review reports;
4. Discussion or establishment of negotiation or litigation strategies;
5. Evaluation of professional competency of employees, consultants or independents with respect to their appointment, hiring, performance or discharge to the extent sensitive personal or performance information may be involved;
6. Any other matters for which public agencies are allowed by law to have closed sessions.

The foundation shall have no obligation to notify any person other than directors of regular or special meetings of the board. However, notice may be given within reason to anyone specifically requesting notice of its meetings. No third party shall be entitled to participate in meetings conducted by electronic means, but a verbatim electronic recording shall be preserved for a reasonable period of time and made available for public review and copying, if requested in advance.

851—2.7(15E) Conflicts of interest. It shall be the policy of the foundation that its officers, directors and staff shall avoid conflicts of interest with the foundation. As used herein conflicts of interest shall mean:

1. Acceptance of any “gift” which would be prohibited to a public official under Iowa Code chapter 68A, if the foundation were considered an agency thereunder;
2. Any transaction between the foundation and any officer, director or employee of the foundation or between the foundation and any “private affiliate” of any officer, director or employee as hereinafter defined. This provision shall not apply to ordinary compensation or expense reimbursement. A “private affiliate” shall mean the spouse, parent or child of any person and any business entity directly or indirectly owned or controlled by any person or directly controlling such person unless such ownership or control shall be less than 5 percent. “Private affiliate” shall expressly include any private employer of a person, but shall not include any government agency.

No officer, director, or employee shall participate in any discussion of or shall vote or shall otherwise seek to influence the outcome of any proposed transaction which would involve a conflict of interest as defined herein. Notwithstanding provisions set forth in “1” and “2” above, a conflict of interest transaction may be allowed if the transaction is fully disclosed and approved by a disinterested majority of the board. It shall not be considered a conflict of interest for public institutions which are represented by law on the board to engage in transactions with the foundation. However, to avoid the appearance of impropriety, or undue influence, directors who are specified by law as representing an institution shall abstain from voting upon resolutions to fund or deny funding to projects directly sponsored by the institutions they represent. Such directors shall not be required to abstain from participation in discussion relating to such projects.

851—2.8(15E) Records. The business records of the foundation shall not be considered public records. Nevertheless, it shall be the policy of the foundation to maintain a public inspection file which shall contain:

1. The foundation's articles, rules, and corporate minutes (other than minutes of information disclosed in closed sessions);

2. Public information concerning applicants for, and recipients of, assistance, including names and amounts of assistance sought or provided and an abstract of the project as furnished by the project sponsors.

Any person may request the foundation to allow access to other records. Such access will be permitted to the extent the foundation staff determines that confidential information would not be revealed thereby. Any denial of access may be appealed to the board in the manner provided by these rules for contested cases.

These rules are intended to implement Iowa Code sections 15E.152 to 15E.166.

[Filed emergency 10/26/90 after Notice 9/19/90—published 11/14/90, effective 10/26/90]

[Filed emergency 11/4/94—published 11/23/94, effective 11/4/94]